

**BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking on the
Commission's Own Motion to Assess and Revise
The Regulation of Telecommunications Utilities.

Rulemaking 05-04-005
(Filed April 7, 2005)

Rulemaking for purposes of revising General Order
96-A regarding informal filings at the Commission.

Rulemaking 98-07-038
(Filed July 23, 1998)

**VERIZON'S REPLY COMMENTS ON THE OPINION
ADOPTING TELECOMMUNICATIONS INDUSTRY RULES**

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Pursuant to Rule 14.3(d) of the Commission's Rules of Practice and Procedure, Verizon California Inc. (U 1002 C), on behalf of itself and its certificated California wireline affiliates (collectively "Verizon"),¹ submits these Reply Comments on the Opinion Adopting Telecommunications Industry Rules (the "Rules PD").

I. THE COMMISSION SHOULD REJECT DRA'S REQUEST TO SUBVERT GENERAL RULE 7.4.2

The Division of Ratepayer Advocates ("DRA") tries to subvert General Rule 7.4.2, which prohibits protests of filings based on policy objections, by asking the Commission to "clarify" what the Commission means by "policy objections." Specifically, DRA asks that protests filed in response to URF Carrier advice letters raising rates are not "policy objections" when the grounds for the protest is that the rates are "unjust or unreasonable." This is clearly wrong and should be rejected.

General Rule 7.4.2 states that "a protest may not rely on *policy objections* to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility." The rule then provides three examples of when an advice letter cannot be protested on the basis that rates are unjust, unreasonable or discriminatory. Example 2 clearly demonstrates that protests to URF Carrier rate increases are indeed policy arguments and therefore barred:

Where the Commission does not regulate the rates of a specific type of utility, an advice letter submitting a rate change by a utility of the specified type is not subject to protest on the grounds that the rates are unjust, unreasonable, or discriminatory.

¹ These affiliates include Bell Atlantic Communications, Inc., d/b/a Verizon Long Distance (U-5732-C), NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions (U-5658-C), MCI Communications Services, Inc., d/b/a Verizon Business Services (U-5378-C), MCI Metro Access Transmission Services, d/b/a Verizon Access Transmission Services (U-5253-C), TTI National, Inc., d/b/a Verizon Business Services (U-5403-C), Teleconnect Long Distance Services & Systems Company, d/b/a Telecom*USA (U-5152-C), Verizon California Inc. (U-1002-C), and Verizon Select Services Inc. (U-5494-C).

DRA's argument that Public Utilities Code Section 451 requires the Commission to allow protests on policy grounds lacks merit. Nothing in Section 451 requires such a result and DRA cites to no authority to support its position. DRA confuses a customer's right to file a *complaint* under Section 451, with the privilege of filing a protest under General Rule 7.4.2.

As Verizon explains in its reply comments on the companion Policy PD, "the Commission broadly examined its regulatory duties under the Public Utilities Code, including Section 451, and concluded that the overwhelming record evidence of competition not only permits, but compels, a reliance on competition to ensure 'just and reasonable' prices without regulatory intervention." The Commission correctly decided General Rule 7.4.2, and DRA's invitation to undo this rule for communications companies (while maintaining it for all other industries) should be rejected.

II. THE COMMISSION SHOULD REJECT TURN'S RECOMMENDATION THAT CARRIERS "DEMONSTRATE" NEW SERVICES COMPLY WITH APPLICABLE LAWS

TURN advocates that carriers "demonstrate" rather than attest that they are in compliance with the Public Utilities Code and consumer protection rules when deploying new services. The Commission, however, already considered this very argument and rejected it as "unnecessary and infeasible within the context of advice letter preparation and review."² TURN fails to address this issue and simply repeats its prior proposal without any new analysis or support. The Commission should again reject TURN's recommendation.

III. THE COMMISSION SHOULD REJECT JOINT COMMENTERS' EDITS TO RULE 5 AND ALLOW RESALE DETARIFFING

Cox, Time Warner and XO (Joint Commenters) recommend edits to Rule 5 that would have the effect (intentionally or not) of broadly prohibiting retail detariffing by ILECs and should therefore be rejected. Rule 5 allows URF Carriers to cancel retail tariffs by advice letter, but Joint Commenters seek to prohibit cancellation of "all presently tariffed services purchased by CLC or IXC from ILECs." Joint Commenters Op. Cm, at 3. As written, this broad exception

² Rules PD at 35.

would swallow the rule itself: because *all* Verizon's retail services are presently tariffed and available for resale, no retail services would be eligible for detariffing. Verizon understands the same is true for AT&T. This clearly is not the Commission's goal and should be rejected.

Indeed, as Verizon previously commented, there is no good reason to prohibit the detariffing of resale services since they are ***exactly the same*** as their retail counterparts but for the wholesale discount, which would continue to apply ***whether or not*** the services are tariffed.³ SureWest, for example, does not presently tariff its resale services but instead addresses them in interconnection agreements with other carriers.⁴ That is the appropriate place to address resale services. Requiring the maintenance of a separate resale tariff, on the other hand, will merely perpetuate the disparate treatment of resale services from ILEC to ILEC (some of which have resale tariffs, others do not)—a decidedly non-uniform approach inconsistent with one of the core goals of this rulemaking.

IV. THE COMMISSION SHOULD ACCEPT COX AND SPRINT'S RECOMMENDATION TO MODIFY RULE 8.3

Sprint and Cox oppose attestation of compliance with the Public Utilities Code and consumer protection rules as an unsafe, “unnecessary sideshow” and unneeded layer of oversight. Verizon agrees with these comments. Cox's arguments are persuasive. In summary, Cox explains that the Commission has never required a carrier to make such attestations and that doing so is not relevant to compliance. In other words, if a company is inadvertently not in compliance with the Code or consumer protection rules, the attestation of compliance will not change that fact. And mistaken attestations can occur because the Code or consumer protection rules change over time or the courts may give them varying interpretations. Thus, Verizon agrees that carriers may mistakenly but in good faith attest to compliance and that such attestation

³ See Verizon's Opening Comments on Policy PD at § II; Verizon's Opening Comments on Rules PD at § I.

⁴ See SureWest Opening Comments at 5.

becomes nothing more than an unnecessary layer of oversight. Verizon supports the modifications to Rule 8.3 that Cox proposes.

V. THE COMMISSION SHOULD MAKE CERTAIN CHANGES AT&T RECOMMENDS

AT&T seeks to modify Rule 2 to submit directories to public libraries upon request. Verizon supports this modification. Decision No. 86-01-026 sets the requirement to provide libraries with directories *upon request*: “Our solution today is to order PacBell to resume its past practice of providing libraries with **requested** directories without charge”⁵ As AT&T explains, the requirement to provide directories on a proactive basis would—without explanation or record support—depart from existing law and practice and would be unduly burdensome.

As it stands, the rule leaves many questions unanswered. For example, is an URF Carrier required to provide each library in the state of California with a directory for each geographic area for which it publishes one? That would mean that a public library would receive dozens of directories from each carrier. While the rule leaves this question unanswered, D.86-01-026 requires only distribution within the carrier’s footprint.⁶

Moreover, Public Libraries may not want all of these directories. Receiving and storing hundreds of directories may create storage or space problems. And electronic resources at most libraries largely make the paper directories obsolete, and libraries with these resources may not want directories. The Commission should therefore accept AT&T’s recommended modification to Rule 2.

AT&T also seeks to modify Rule 5.4 related to market and technical trials because the rule relies on pre-URF regulations requiring imputation, cost support, and pre-approval of new services. AT&T is right on this score: URF Phase 1 eliminated such requirements. There is no record support for undoing

⁵ D.86-01-026, 20 CPUC2d 237, 253 (emphasis added).

⁶ D.86-01-026, 20 CPUC2d at 254.

URF on this point and the Commission should therefore modify Rule 5.4 along the lines AT&T suggests.

AT&T seeks to eliminate rule 7.1(6) as unnecessary and confusing. Verizon similarly argued in opening that Rule 7.1(6) is confusing⁷ and agrees that it is unnecessary for the same reasons AT&T articulates. Should the Commission decide not to eliminate this rule, however, then it should make the changes to it that Verizon recommended in opening comments.

Dated: August 20, 2007

Respectfully submitted,

/s/ Jesus G. Roman

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⁷ August 13, 2007 Verizon Opening Comments on the Opinion Adopting Telecommunications Industry Rules at 4.

CERTIFICATE OF SERVICE

I hereby certify that: I am over the age of eighteen years and not a party to the within entitled action; my business address is 112 Lakeview Canyon Road, CA501LB, Thousand Oaks, California 91362; I have this day served a copy of the foregoing, **VERIZON'S REPLY COMMENTS ON THE OPINION ADOPTING TELECOMMUNICATIONS INDUSTRY RULES** by electronic mail to those who have provided an e-mail address and by U.S. Mail to those who have not, on the service list.

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 20th day of August, 2007 at Thousand Oaks, California.

/s/ Jacque Lopez
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